

1990

Kathy Lynn Higgins, et al. v. Salt Lake County, et al.  
: Unknown

Utah Supreme Court

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BRIEF

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July 31, 1991

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CLERK SUPREME COURT,  
UTAH

HAND-DELIVERED

The Honorable Justices of the  
Utah Supreme Court  
322 State Capitol Building  
Salt Lake City, Utah 84114

Re: Kathy Lynn Higgins, et al. v. Salt Lake County, et al.  
Case No. 900255

Dear Honorable Justices:

Kathy Higgins, pursuant to Rule 24(j), Utah R. App. P., submits this response to the letter of amicus curiae Valley Mental Health claiming Rollins v. Peterson, 169 Utah Adv. Rep. 10 is "controlling."

The Rollins case is not controlling because it examines Section 319 of the Restatement (Second) of Torts and the duty of the State Hospital to protect an "unidentifiable" person. By comparison, one basis for "duty" in this case is the "special relation" exception of Section 315 of the Restatement (Second) of Torts; that is, Salt Lake County Mental Health (hereinafter SLCMH) had a recognized "special relationship" with Caroline Trujillo, its dangerous and mentally ill patient, which imposed a duty to meet accepted and recognized standards of care to properly treat Caroline Trujillo and victims such as Shaundra Higgins. As alternative bases for "duty," Kathy Higgins also asserts SLCMH had a professional duty and a duty arising from two court orders that placed Caroline Trujillo into its care and required it to properly treat Caroline Trujillo.

More importantly, Rollins indicates that if the victim is reasonably "identifiable," which means the injured person (either individually or as a member of a distinct group), suffered the type of bodily harm that the medical professional knew or should have known was likely to occur, then a duty is owed. Rollins is, therefore, contrary to the standard argued by Valley Mental Health in its brief that a specifically identified victim is required for a duty to arise. (Brief of Valley Mental Health, pages 6, 11, 13 and 23-24).

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The Rollins case, therefore, supports Kathy and Shaundra Higgins' position that Shaundra Higgins was "identifiable" (Reply Brief of Appellant to Appellee Salt Lake County Mental Health, page 18) as a person about whom Caroline Trujillo had been brooding for months (Id.) and as a person foreseeably endangered by Caroline Trujillo's condition (Reply Brief of Appellant to Amicus Curiae Valley Mental Health at 13-15).

Respectfully submitted,

CLYDE, PRATT & SNOW



James L. Warlaumont

JLW:lb

cc: Ronald E. Nehring, Esq.  
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